

1 THE HONORABLE RONALD B. LEIGHTON  
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9 UNITED STATES DISTRICT COURT  
10 WESTERN DISTRICT OF WASHINGTON  
11 AT TACOMA

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MARK RICKNER and HEIDI RICKNER, each individually and a marital community comprised thereof,	)	Case No. 3:19-cv-05857-RBL
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>JPMORGAN CHASE BANK, N.A.'S MOTION FOR RECONSIDERATION</b>
	)	
ALLSTATE INSURANCE COMPANY, a foreign insurance company,	)	<b>NOTED FOR CONSIDERATION: FEBRUARY 28, 2020</b>
	)	
Defendant.	)	
	)	

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## I. INTRODUCTION

Pursuant to Fed. R. Civ. P. 60(b), JPMorgan Chase Bank, N.A. (“JPMC”), third-party subpoena recipient, respectfully requests that the Court reconsider its February 13, 2020 Order Granting Motion to Enforce Subpoena for Loan Records of Chase Bank (“Order”) (Dkt. 19), and evaluate the evidence JPMC submitted in its Response to the Motion (Dkt. 20) and the supporting Declaration of John Devlin (Dkt. 22).

## II. ISSUE PRESENTED

**Issue:** Whether the Court should reconsider its February 13, 2020 Order, and deny the Joint Motion to Enforce Subpoena for Loan Records of Chase Bank (“Motion”) (Dkt. 10) when

JPMORGAN CHASE BANK, N.A.'S MOTION FOR  
RECONSIDERATION - 1  
Case No. 3:19-cv-05857-RBL  
122006.0221/7968833.1

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1 the evidence JPMC filed in opposition to the Motion shortly after the Court issued its Order  
 2 proves that JPMC has already responded to the subject subpoena.

3 **Short Answer:** Yes, because the Court ruled on the subject Motion—which was noted  
 4 for consideration on February 14, 2020—on February 13, 2020, before JPMC had provided a  
 5 written confirmation that it had no responsive documents, and had offered to provide a  
 6 confirming affidavit, which Allstate had rejected.

### 7 III. EVIDENCE RELIED UPON

8 All filings and pleadings herein, including JPMC’s Response to the Motion to Enforce  
 9 Subpoena, and the Declaration of John S. Devlin in Support of JPMorgan Chase Bank, N.A.’s  
 10 Response to Motion to Enforce Subpoena, dated February 13, 2020.

### 11 IV. FACTS

12 The subject Motion was noted for consideration on February 14, 2020. JPMC submitted  
 13 evidence on February 13, 2020, before the February 14, 2020 noting date, but shortly after the  
 14 Court ruled on the motion. JPMC’s counsel filed its response on February 13, 2020, after  
 15 attempting to resolve the matter with Allstate’s counsel. Pursuant to Fed. R. Civ. P. 60(b)(6), the  
 16 requested relief is justified because JPMC’s counsel attempted to resolve this matter before  
 17 taking up the Court’s time with the dispute in light of the February 14, 2020 hearing date for the  
 18 Motion.

19 The facts JPMC submitted in opposition to the Motion on February 13, 2020 show that  
 20 JPMC responded to the subject subpoena. JPMC received the subject subpoena on December  
 21 13, 2019, and its subpoena department conducted a search for responsive records. *See*  
 22 Declaration of John S. Devlin in Support of JPMorgan Chase Bank, N.A.’s Response to Motion  
 23 to Enforce Subpoena, dated February 13, 2020 (“Devlin Decl.”), at ¶ 3. On or about December  
 24 18, 2019, JPMC sent a letter of no documentation to Allstate’s counsel in response to the subject

1 subpoena. *Id.*, ¶ 4, Ex. A.

2 JPMC received the instant motion to enforce the subpoena on January 30, 2020, and on  
 3 February 3, 2020, JPMC’s subpoena department emailed Allstate’s counsel a copy of the no  
 4 records letter. *Id.*, ¶ 5. Allstate’s counsel responded with correspondence, dated February 4,  
 5 2020, to JPMC stating that JPMC’s response was insufficient. *Id.*, ¶ 6, Ex. B.

6 On February 5, 2020, JPMC’s in-house counsel called Allstate’s counsel and spoke with  
 7 her about the possibility of a no records affidavit. *Id.*, ¶ 7. On or about February 6, 2020, JPMC’s  
 8 in-house counsel emailed a proposed no records affidavit to Allstate’s counsel. *Id.*, Ex. C. On  
 9 February 10, 2020, Allstate’s counsel communicated Allstate’s refusal to withdraw the motion  
 10 based upon the proposed no records affidavit. *Id.*, at ¶ 8.

## 11 V. ARGUMENT

12 Upon his engagement to represent JPMC in this matter on February 11, 2020, counsel for  
 13 JPMC attempted to resolve this dispute with Allstate’s counsel. Allstate’s counsel rejected a  
 14 request to re-note this motion for that purpose. *See Devlin Decl.* ¶ 2. The Motion was noted for  
 15 Consideration on February 14, 2020. On February 13, 2020, the Court granted the Motion shortly  
 16 before JPMC filed its response on the same day – thus, the Court did not have the opportunity to  
 17 review the evidence JPMC submitted proving that it had already responded to the subpoena –  
 18 contrary to Allstate’s assertion that it had not. Under Fed. R. Civ. P. 60(b)(1), the Court’s ruling  
 19 was a mistake because it did not have all of the relevant facts. JPMC submitted such evidence  
 20 on February 13, 2020, before the February 14, 2020 noting date, but shortly after the Court ruled  
 21 on the motion. JPMC’s counsel filed its response on February 13, 2020, after attempting to  
 22 resolve the matter with Allstate’s counsel. Pursuant to Fed. R. Civ. P. 60(b)(6), the requested  
 23 relief is justified because JPMC’s counsel attempted to resolve this matter before taking up the  
 24 Court’s time with the dispute in light of the February 14, 2020 hearing date for the Motion.

## VI. CONCLUSION

For all of these reasons, the Court should reconsider its February 13, 2020 Order and deny the parties' Joint Stipulated Motion to Enforce Subpoena for Loan Records of Chase Bank.

DATED: Febuary 18, 2020

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By: s/ John S. Devlin

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*Attorneys for JPMorgan Chase Bank, N.A., third-party subpoena recipient*

1                   **CERTIFICATE OF SERVICE**

2       I certify that, on the date indicated below, I caused the foregoing document to be  
3 presented to the Clerk of the Court for filing and uploading to the CM/ECF system. In accordance  
4 with their ECF registration agreement and the Court's rules, the Clerk of the Court will send e-  
5 mail notification of such filing to all attorneys and parties of record.

6       I affirm under penalty of perjury under the laws of the United States that the foregoing is  
7 true and correct to the best of my personal knowledge.

8       SIGNED February 18, 2020, at Seattle, Washington.

9  
10                   *s/ Peter Elton* \_\_\_\_\_

11                   Peter Elton  
Legal Assistant